

REMARKS

The Office Action

Claims 1-19 are pending. Claims 1-5, 11, 13, 16, and 18 stand rejected for double patenting over Application No. 10/297,229. Claims 5 and 13 are objected to for informalities. Claims 1-19 stand rejected for indefiniteness.

Telephonic Interview

Applicants thank the Examiner and his supervisor for the telephonic interview on December 3, 2007 and present arguments and amendments that are commensurate with those discussed.

Rejections for Obviousness-type Double Patenting

As discussed with the Examiner, Application No. 10/297,229 has now issued as U.S. Patent No. 7,291,673. Claims 31, 32, and 47-52 as filed in the PCT application for which the '229 application is the U.S. National Stage were canceled during prosecution. Accordingly, the rejection is now moot.

Claim Objections

Claims 1 and 5 have been amended to emphasize the plural form, as requested by the Examiner.

Claim 13 has been amended to recite “wherein said biomaterial is degradable in vivo.” Support for this amendment is found, for example, page 18, lines 23-24.

Applicants submit that not all biomaterials are degradable in vivo, and claim 13 is therefore of narrower scope than claim 1. The objection may be withdrawn.

Rejections under 35 U.S.C. § 112, second paragraph

Each of the bases for the rejection of claims 1-19 for indefiniteness will be addressed in turn.

As requested by the Examiner, claims 1 and 5 have been amended to delete reference to “the two components,” by changing the language to “the components.” The use of the definite article “the” is thus consistent with the use of any two or more components in the claimed method.

As discussed with the Examiner, the term “self-selective” is defined in the specification at pages 8-9. Further discussion of the meaning of this term with respect to the invention is found at pages 15-19 and 39. Applicants submit that based on these passages in the specification that one skilled in the art would understand the metes and bounds of the claims.

With respect to the term “accelerator,” recited in claim 17, it is used in the claims consistently with its art known meaning of increasing the rate of a chemical reaction. The specification describes precursor components with which accelerators may be employed as well as examples of accelerators at page 46, and the rejection may be withdrawn.

The term “strong nucleophile” is defined on page 9 of the specification. Further discussion of appropriate nucleophiles and methods of selecting such nucleophiles is found at pages 38-41. Moreover, Applicants submit that one skilled in the art would be able to determine the relative strength of a nucleophile under given conditions using well known techniques.

The term “unprocessed” with respect to albumin has been replaced with “albumin in its native state” in claims 1 and 5, as suggested by the Examiner’s supervisor. Support for this amendment is found at pages 42-43. With respect to “processed” recited in claim 2, Applicants submit that one skilled in the art would be able to determine whether a naturally occurring peptide or protein was processed or not. As discussed, “processed” may have several different meanings in this context; however, breadth is not indefiniteness (M.P.E.P. § 2173.04).

“Functionalized,” recited in claim 3, is defined at page 11. As discussed, one skilled in the art would easily be able to determine whether a particular precursor component included a strong nucleophile, conjugated unsaturated group, or a conjugated unsaturated bond in its native state, or whether the precursor component would need to be functionalized to include such moieties. Discussion of functionalization of poly(ethylene glycol) is also provided at page 18, lines 13-22. This rejection may also be withdrawn.

With respect to “at least three strong ...,” recited in claim 8, Applicants have amended the claim to address any lack of clarity.

With respect to “sensitive biological molecule,” recited in claim 14, the term is

defined at page 12. Applicants also note that the term does not only refer to molecules that are necessarily present in a cell, as therapeutic agents are sensitive biological molecules and would not necessarily be found in a cell. Applicants submit that one skilled in the art would understand whether a particular method of making a biomaterial was being carried out in the presence of sensitive biological molecules, and the rejection may be withdrawn.

With respect to the rejection of claims 1-19 for omitting essential steps, independent claims 1 and 5 have been amended to recite “thereby making said biomaterial.” And this final basis of the rejection may be withdrawn.

New Claims

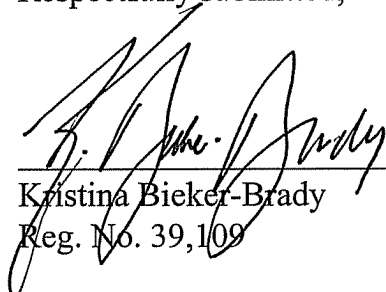
New dependent claims 51-56 have been added. Support for new claim 51 is found, for example, at page, lines 21-26. Claims 52 and 53 are supported, for example, at page 18, lines 13-22. Support for claim 54 is found, for example, at page 63, lines 5-11. Support for claim 55 is found, for example, at page 85, Example 14. Finally, claim 56 finds support, for example, at page 71, lines 15-19.

CONCLUSION

Applicants submit that the claims are in condition for allowance, and such action is respectfully requested. Enclosed is a petition to extend the period for reply for three months, to and including February 1, 2008. If there are any charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

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Kristina Bieker-Brady
Reg. No. 39,109

Clark & Elbing LLP
101 Federal Street
Boston, MA 02110
Telephone: 617-428-0200
Facsimile: 617-428-7045